

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

Application 25881 Permit 19247 License \_\_\_\_\_

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE  
AND AMENDING THE PERMIT**

**WHEREAS:**

1. Permit 19247 was issued to The Hearst Corporation, Sunical Division on May 29, 1984 pursuant to Application 25881.
2. Permit 19247 was subsequently assigned to The Hearst Corporation.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB).
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Permit Condition 12 pertaining to the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 8 of the permit be amended to read:  

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE  
December 31, 2006  
(0000008)
2. Condition 8 of the permit be amended to read:  

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE  
December 31, 2008  
(0000009)
3. Condition 12 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water

requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:

(1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: JUNE 17 1996

  
for Edward C. Anton, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19247

Application 25881 of The Hearst Corporation, Sunical Division  
200 Hearst Building, San Francisco, California 91403

filed on December 6, 1978, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Arroyo de la Cruz (underflow)

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 822,700, East 1,028,700 California Coordinate System, Zone 5	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	36	25S	6E	MD

County of San Luis Obispo

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation	SE $\frac{1}{4}$	27	26S	7E	MD	120
	NE $\frac{1}{2}$ of NE $\frac{1}{4}$	34	26S	7E	MD	30
	S $\frac{1}{2}$	31	26S	8E	MD	150
					Total	300
Municipal	Within the Boundaries of the Service area being within: SW $\frac{1}{4}$ of NE $\frac{1}{4}$	16	25S	6E	MD	
	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	11	26S	6E	MD	
	Sections 26 & 36		26S	7E	MD	
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	31	26S	8E	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. At full project implementation, the water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a maximum rate of 1.29 cubic feet per second for municipal use, and 3.77 cubic feet per second for irrigation use to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 1,607 ace-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 1, 1995. (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1997. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall consult with the Division of Water Rights and the Department of Water Resources and develop and implement a water conservation program or actions. A progress report on development of the program shall be submitted to the Board within 6 months. The program or proposed actions shall be presented to the Board for approval within one year from the date of this order or such further time as may, for good cause shown, be allowed by the Board. (0000029)

15. No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Coast Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

- (1) the Regional Board issued a waiver pursuant to Section 13269, or
- (2) the Regional Board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the water code for percolation to the groundwater of water resulting from the irrigation of crops. (0290101)

16. The Permittee shall conduct the Monitoring Programs as described in Appendix 5, beginning at page 332, of Appendix I, Comments and Responses to the State Environmental Impact Report, Hearst Ranch Visitor Services Development Plan, Water Supply Project. The program report shall (1) analyze the previous year; (2) project water withdrawal during the forthcoming year as a result of further development; (3) project water withdrawal effects assuming (a) an average flow year and (b) the 1976 and 1977 drought years, and (c) those drought years of historical record which are deemed appropriate at the time of the analysis, and compare the anticipated effects to the conclusions of the Staged EIR; (4) propose additional monitoring or scientific studies of the hydrology or biological resources which would be appropriate given the projected hydrological effects of the projected pumping; and (5) propose mitigation measures in response to the effects of project pumping on underflow water and the surface flow. The Board reserves jurisdiction to require Permittee to initiate additional scientific studies and monitoring programs and enact specific mitigation measures for the protection of the fisheries, riparian vegetation, or other biological resources dependent on the waters of the Arroyo de la Cruz. Such studies and monitoring programs shall meet the specifications of the Board.

17. The Monitoring Program as described in Term 16 shall be conducted until the Permittee is instructed by the Board to discontinue the Monitoring Program.

18. The Board reserves jurisdiction, upon its own motion, or upon complaint, and after notice and an opportunity for hearing, to make further findings as to whether the diversion of water will cause significant adverse impacts to the biological resources dependent upon the waters of the Arroyo de la Cruz or whether any significant adverse impact to those resources has been adequately mitigated. Upon making such a finding or findings, the Board reserves jurisdiction to limit amounts of water diverted under this permit to an amount less than that set forth in term 5, or require such mitigation as is determined necessary by the Board to adequately mitigate significant adverse impacts.

19. In Supplemental environmental documents prepared pursuant to the California Environmental Quality Act for each proposed development project, the Permittee shall include, or cause to be included, an analysis, including but not limited to consideration of the information provided by the Monitoring Program, of potential environmental impacts to the biological resources dependent on the waters of the Arroyo de la Cruz, propose mitigation of identified impacts, and present alternatives to the diversion and use of water.

It is contemplated herein that environmental documents will be prepared pursuant to application for appropriate development permits from the County of San Luis Obispo for each of the following projects:

1. The Staging Area development (82 acre-feet);
2. San Simeon Village Commercial (11 acre-feet);
3. San Simeon Village Resort and Golf Course (613 acre-feet);
4. San Simeon Bay Harbor (20 acre-feet);
5. Pine Forest Resort and Golf Course (703 acre-feet);
6. San Carpoforo Point Resort (178 acre-feet).

In the event that such environmental documents as described in this term are not prepared, and the enumerated projects will nevertheless go forward, the Permittee shall provide to the Board the analyses of potential environmental impacts, proposed mitigations measures, and alternatives as set forth in this term, prior to commencing each such project. These analyses shall be circulated through the State Clearinghouse and to the public to the same extent as would environmental documents for a project involving approval by a State agency, and comments shall be responded to in the same manner as required for comments on a draft EIR.

Permittee shall supply the Board with a copy of the final staged supplemental EIR and Notice of Determination by the Lead Agency (or if no EIR is done, the alternative analysis required above) for each project. Within 90 days of receipt of these materials from permittee, the Board will determine at a public meeting whether amendments to this permit should be considered to mitigate or prevent adverse impacts on biological resources dependent upon the waters of the Arroyo de la Cruz revealed in the EIR or alternative analyses. If the Board elects to consider amendments to the permit terms a hearing shall be noticed and held as expeditiously as possible, a decision shall be rendered within 120 days of the close of the hearing record, and Permittee shall not divert or use water for the project described in the Supplemental Staged Environmental Impact Report or alternative environmental analyses until the Board amends the permit terms or issues a decision that it will not amend the terms.

20. The Board reserves jurisdiction to require mitigation of any significant adverse environmental impacts on biological resources dependent on the waters of Arroyo de la Cruz related to the diversion or use of water under this permit as are identified in supplemental environmental documents (or if no supplemental environmental document is done, in alternative analyses required by Term 19) for each or any phase of the proposed development projects. If, based on the supplemental environmental documents (or alternative analyses), the Board finds that the diversion or use of water could cause significant adverse environmental impacts which cannot be mitigated to acceptable levels, the Board reserves jurisdiction, after notice and an opportunity for hearing, to limit the amount of water diverted under this permit to an amount less than that set forth in term 5.

The intent of the Board in imposing this term is that all foreseeable significant adverse impacts of the water diversions associated with each phase of the Hearst development project on the biological resources dependent upon the Arroyo de la Cruz will be mitigated. If all significant adverse impacts cannot be mitigated, it is the intent of the Board that the project not proceed as proposed. The jurisdiction reserved by the Board will be exercised and further mitigation measures will be imposed or the amount of water authorized to be diverted will be reduced if the EIR or alternative analysis for any phase of the proposed development project does not demonstrate that the project will have no significant adverse impacts upon the biological resources dependent upon the Arroyo de la Cruz.

21. All gauges and measurement devices required in this permit shall be maintained in working order at all times. Specific maintenance and calibration of the gauges and measurement devices shall be initiated by the permittee at the direction of the staff of the Board if, after a period of operation of the gauges and measurement devices, it is found that the devices are not functioning accurately. The annual reports required in term 16 shall include a report of any malfunction of any gauge or measurement device during the year prior to the date of the annual report.

22. The staff of the Board and Department of Fish and Game will be granted access at reasonable times to all gauges and measurement devices used in the Monitoring Program.

23. In addition to jurisdiction reserved in terms 16, 18, and 20, the Board reserves jurisdiction after notice and hearing to limit the quantity of water appropriated under this permit to an amount less than that set forth in term 5 if the permittee exercises another right to divert water from the Arroyo de la Cruz for any purpose in excess of diversions documented by Statements of Water Diversion and Use, filed prior to date of this permit, and the Board finds that such diversion of water could adversely impact the biological resources dependent on the waters of the Arroyo de la Cruz.

24. Water supply for wildlife shall be provided at a site near the pump and at other sites identified by the Board, and as part of the riparian vegetation irrigation system if this system is found to be necessary.

25. The pumps shall be equipped with sound absorbing housings to reduce noise levels to not significantly exceed background levels.

26. The Permittee shall submit the plans and environmental assessment of the final design of water system related pipelines, powerlines, and roads to the Board for review and approval before any construction begins.

27. Permittee shall design powerlines in accordance with the best available technology as described in "Suggested Practices for Raptor Protection on Power Lines - The State of the Art in 1981", Raptor Research Report No. 4, Raptor Research Foundation, Inc., 1981, to avoid adverse impacts to raptors.

28. Pursuant to the Stipulation between the Hearst Corporation, Sunical Division, and the Department of Fish and Game, Protestant, For Withdrawal of Protest, signed on March 31, 1980, and April 8, 1980, respectively, the permit term substantially as therein agreed to is included herein:

For the protection and preservation of fish and wildlife, permittee during the period of January 1 through April 30, shall only pump when the flow of the Arroyo de la Cruz immediately upstream from the wells exceeds 38 cubic feet per second.\* Alternatively, with the approval of the Department of Fish and Game, permittee may, despite reduced flow, utilize mitigation measures to maintain a minimum depth of flow of 0.6 feet over 25 percent of the width of the channel at the critical passage points in the area generally known as the lower basin. Permittee may resume and continue pumping when the flow or depth reach 10 percent below the critical level established above.

Pursuant to information developed in the Monitoring Program, the Board reserves jurisdiction to revise this term and reserves jurisdiction to impose additional terms to protect fish and wildlife. Because the steelhead fishery in the Arroyo de la Cruz is an extremely valuable resource already surviving under marginal conditions, that portion of this term providing that the permittee may resume and continue pumping when the flow or depth reach 10 percent below the critical level will not go into effect unless and until the Board, annually at a public meeting, has considered and determined that the monitoring program demonstrates that resuming pumping will not cause a significant adverse impact on the fishery. This is not intended to limit the Board's ability to exercise the reserved jurisdiction provided for by the terms of this permit even with respect to diversion of water for the staging area development.

\* This flow requirement is based upon preliminary studies. The number may be modified based upon the results of the Monitoring Program.

29. The Board reserves jurisdiction, after notice and opportunity for hearing to reduce the quantities of water set forth in term 5 to be consistent with the final certification of the Local Coastal Program Land Use Plan or with any final court order regarding certification of such plan for the County of San Luis Obispo or any geographically separable portion which includes the subject property.

30. By accepting this permit, permittee acknowledges that permittee fully understands the Board, under reserved jurisdiction contained in these terms, may limit the amount of water diverted under this permit to an amount less than that set forth in term 5. Permittee further acknowledges that permittee understands that water may not be available under this permit to supply components of the proposed Hearst Ranch development plan if the Board exercises its reserved jurisdiction. Therefore, permittee is put on notice that permittee is at a certain financial risk in developing the components of the Hearst Ranch development plan if the financial viability of any single component is dependent upon the completion of any or all of the subsequent proposed development components.

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 29 1984

STATE WATER RESOURCES CONTROL BOARD

*Rafael Wash*

Chief, Division of Water Rights 67809-983 2-79 4M 0 OSP